IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

C.A. NO.5409 OF 2007
IN
FIRST APPEAL NO.864 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

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Mr.S.S.Tambekar for the appellant.

Mr.S.M.Vidyarthi for respsondent no.1.

CORAM : ANOOP V. MOHTA,J.

DATED : 29th October, 2007

P.C.

The learned counsel for the appellant has strongly opposed this application filed by the original applicant-respondent no.1 for withdrawal of the amount. Admittedly, there is no appeal filed by the owner. The appellant is the Insurance company. As per the finding recorded, based upon the RTO report/Register the trial court i.e. Motor Accidents Claims Tribunal has awarded the compensation of Rs.2 lacs with interest at 7.5 against

respondents 1 and 2, jointly and severally. The tribunal has already directed to pay the petitioner-original claimants Rs.70,000/- by account payee and remaining compensation by investing in the Post Office for a period of six years.

At this stage of the proceeding there is clear finding in favour of the claimants. The grounds as raised need detailed scrutiny and hearing. There is 100% disability caused because of the accident in question.

Taking all this into account, I am of the view that the stay granted by this court to this extent in reference to the payment of Rs.70,000/- is vacated. The petitioner-original claimant is entitled to the amount of Rs.70,000/- as already ordered even at this stage of the proceeding.

However, considering the submission raised, I am of the view that the petitioner-orig.claimant is entitled to withdraw Rs.35,000/- without security and Rs.35,000/- subject to furnishing surety to the satisfaction of the trial court.

The rest of the amount as already ordered be invested accordingly, if not already invested.

C.A. is accordingly disposed of.

[ANOOP V. MOHTA,J.]